

2

1 **J. RUSSELL CUNNINGHAM, State Bar #130578**
2 **J. LUKE HENDRIX, State Bar #271424**
3 **DAVID R. WIKSELL, State Bar #272490**
4 **DESMOND, NOLAN, LIVAICH & CUNNINGHAM**
5 1830 15th Street
6 Sacramento, California 95811
7 Telephone: (916) 443-2051
8 Facsimile: (916) 443-2651

9 Attorneys for J. Michael Hopper
10 Chapter 7 Trustee

11 **UNITED STATES BANKRUPTCY COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13 **SACRAMENTO DIVISION**

14 In re:

15 STACEY M. CRANDALL

16 Debtor.

Case No. 09-36774-B-7
Chapter 7

DNL-6

Date: November 8, 2011
Time: 9:32 a.m.
Location: 501 I Street, 6th Floor
Department B
Sacramento, CA 95814

17 **MOTION FOR TURNOVER OF POST-CONVERSION REAL PROPERTY RENTS**

18 Chapter 7 trustee J. MICHAEL HOPPER ("Trustee"), in his capacity as Chapter 7 trustee
19 for the bankruptcy estate of STACY M. CRANDALL ("Debtor"), hereby moves for an order
20 compelling the Debtor to account for and turnover all rents derived from property of the
21 bankruptcy estate after this case was converted from Chapter 11 to Chapter 7, in an amount no
22 less than \$15,000. In support thereof, it is represented that:

23 **JURISDICTION AND BACKGROUND**

24 1. Jurisdiction for this motion exists pursuant to 11 U.S.C. Sections 1334 and
25 157(b)(2)(E) and 11 U.S.C. Section 542(a).

26 2. On August 9, 2009, the Debtor commenced the above-captioned bankruptcy case by
27 filing a voluntary Chapter 11 petition.
28

1 3. On May 24, 2011, this case was converted to Chapter 7. Trustee is the duly appointed
2 Chapter 7 trustee of the Debtor's bankruptcy estate.

3 4. The Debtor's amended Schedule I, filed on September 16, 2011, discloses income
4 from real property in the amount of \$2,500 per month.

5 5. On October 21, 2011, Trustee examined the Debtor at her 341 meeting of creditors
6 regarding, among other things: (a) the single family residence commonly known as 5724 North
7 Avenue, Carmichael, California ("5724 North Avenue"); and the residential duplex commonly
8 known as 6300 La Cienaga Drive, North Highlands, California ("6300 La Cienaga Drive"). The
9 Debtor's original Schedule A, filed on August 7, 2009, identifies 5724 North Avenue and 630 La
10 Cienaga (hereinafter collectively "Rental Properties") as real property held in fee simple by the
11 Debtor. The Debtor testified that 5724 North Avenue and both units at 6300 La Cienaga Drive are
12 occupied by tenants who pay at the end of each month. The Debtor confirmed that the tenants had
13 received Trustee's September 30, 2011 written demands for the rents. The Debtor testified that she
14 had instructed the tenants to not comply with the demand if her discharge is entered. The Debtor
15 testified that no debt secured by 5724 North Avenue had been paid since 2008, i.e. about a year
16 before she filed bankruptcy.

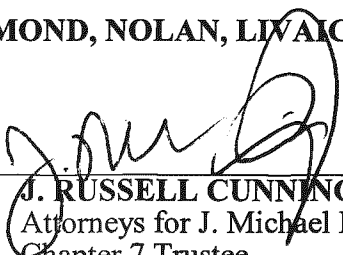
17 6. To date, Trustee has not received any of the post-petition rents derived from the
18 Rental Properties, including the \$15,000 (\$2,500/month x 6 months) conceded in the amendment.

19 7. The Debtor's interest in the Rental Properties, and the income derived therefrom, are
20 property of the Debtor's bankruptcy estate. 11 U.S.C. Section 541(a)(1). Since they are not of
21 inconsequential value or benefit to the estate, the Debtor is obligated to deliver to Trustee, and
22 account for, such property or the value of such property. 11 U.S.C. Section 542(a).

23 **WHEREFORE**, Trustee prays that the motion be granted, and for such other and further
24 relief as is necessary and proper.

25 Dated: October 25, 2011

DESMOND, NOLAN, LIVAICH & CUNNINGHAM

26
27 By: 
28 **J. RUSSELL CUNNINGHAM**
Attorneys for J. Michael Hopper
Chapter 7 Trustee